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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,805	10/01/2003	Katsuyuki Nonaka	OKAB:002	3086
7590	05/20/2005		EXAMINER	
ROSSI & ASSOCIATES P.O. Box 826 Ashburn, VA 20146-0826			GOODROW, JOHN L	
			ART UNIT	PAPER NUMBER
			1756	

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/676,805	NONAKA ET AL.	
	Examiner	Art Unit	
	John L. Goodrow	1756	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1,3-10 and 12-22 is/are rejected.
- 7) Claim(s) 2 and 11 is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: ____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,3-10 &12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikeda et al in view of Yoshikawa et al. Applicants' invention is directed to a toner kit and a method of forming an image using the toner. Ikeda et al teaches an image forming method and a toner kit used in the image forming method. The toner is both a black and colored toner note the Abstract. The black colorant has an average primary particle size note Col. 16 lines 35 – 65 that prevents the agglomeration of the toner particles that tends to cause the lowering of the charge retention ability of the toner. The lowering of the charge quantity at the time of transfer from the electrostatic-image-bearing member to the intermediate transfer member and a lowering of the charge quantity at the time of transfer from the intermediate transfer member to the transfer material tends to cause toner scattering and fog. If the particle size is too large then the toner has a lowering of the coloring power. Not only is the particle size shown to be critical in the development of an electrostatic image but the specific surface area note Col.17 lines 15-25 can

prevent spots around line images, fog and toner scattering. Colorants for the developer are shown in Col.18-20 with the size preferably in the weight-average particle diameter range of 3.0 μ m to 10.0 μ m-note Col.20 line 57-60. Ikeda et al fails to teach the size of the black toner used with the colored toner in the toner kit. Yoshikawa et al teaches a toner and method of using the toner having a black toner of the weight average particle size of 4.0 μ m to 11.0 μ m note Col. 15 lines 50-65. Various types of additives are added to the developer to improve the electrostatic charge stability, developing property, flow ability, and the durability. Such additives are the known waxes and silica note Col. 17. It would be obvious to one of ordinary skill in the art at the time of applicants' invention with a reasonable expectation of success to the additives with the size range of the black and colored toners in a toner kit and method of developing in which the kit has similar physical properties that improve the developed image.

3. Claims 2 & 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Goodrow whose telephone number is 571-272-1384. The examiner can normally be reached on Monday -Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark F. Huff can be reached on 571-272-1385. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John L Goodrow
Primary Examiner
Art Unit 1756
